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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,806	08/04/2004	Jerry Cummins	71483-0007	4760

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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3676

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/710,806	CUMMINS ET AL.	
	Examiner	Art Unit	
	Carlos Lugo	3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7 and 9-42 is/are pending in the application.
- 4a) Of the above claim(s) 16-27 and 33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 and 28-41 is/are allowed.
- 6) ☐ Claim(s) 6,7,9-13,15 and 42 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on August 10, 2006.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 6,7,9-13,15, and 42 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,219,626 to Johnson.

Regarding claim 42, Johnson discloses a vehicular door handle assembly comprising a primary actuator adapted or capable of being mounted to an exterior surface of a vehicle door, wherein the primary actuator has a first user interaction portion (the handle 10) for moving the primary actuator between a latched position and an opened position, and wherein the vehicle door is opened by a user by moving the user interaction portion of the primary actuator between the latched position and the opened position.

The assembly further comprises a secondary actuator operatively associated with the primary actuator, wherein the secondary actuator has a second user interaction portion (18) for moving the secondary actuator between a secure position, wherein movement of the primary actuator from the latched position to the opened position is prevented, and a release position, wherein the primary actuator can move from the latched position to the opened position.

The second user interaction portion is aligned with at least a portion of the first user interaction portion so that attempted movement of the primary actuator out of the latched position first causes the secondary actuator to be moved from the secure position to the release position.

As to claim 6, Johnson discloses that the assembly further comprises a biasing member (23) that biases the secondary actuator to the secure position.

As to claim 7, Johnson discloses that the biasing member (23) is a leaf spring.

As to claim 9, Johnson discloses that the assembly further comprises a latch receiver (17) adapted to be mounted to the vehicle door adjacent the primary actuator such that the latch is partially received by the latch receiver and partially received by the primary actuator when the latch is in the active condition.

As to claim 10, Johnson discloses that the assembly further comprises a biasing member (23) that biases the secondary actuator to the secure position and the latch to the active condition, and movement of the secondary actuator against the bias of the biasing member to the release position withdraws the latch from the latch receiver to the inactivate the latch.

As to claim 11, Johnson discloses that the biasing member (23) biases the secondary actuator away from the primary actuator, and the attempted movement of the primary actuator out of the latched position causes the secondary actuator to be moved against the bias of the biasing member and towards the primary actuator.

As to claim 12, Johnson discloses that the secondary actuator is pivotally mounted to the primary actuator (at 21), and pivotal movement of the secondary

actuator relative to the primary actuator translates into linear movement of the latch relative to the latch receiver.

As to claim 13, Johnson illustrates that the latch comprises at least one flange, and the secondary actuator comprises a cam in operative communication with the at least one flange to effect the linear movement of the latch.

As to claim 15, Johnson illustrates that the latch (14) comprises at least one flange and the secondary actuator (18) comprises at least one arm. During the movement of the primary actuator from the secure position to the release position, the at least one arm abuts the at least one flange to induce movement of the latch out of the latch receiver to the inactive condition.

***Allowable Subject Matter***

4. **Claims 2-5 and 28-41 are allowed.**
5. **Claim 14 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. At the instant, Johnson fails to disclose that the cam comprises at least one pair of arms that define a groove there between, and the at least one flange is slidingly received by the groove (claims 14 and 41); that the primary and secondary actuators have a common actuation path so that attempt of the primary actuator out of the latch position causes the secondary actuator to move (claim 28) and that the actuation path comprises a first portion and a second portion and movement of the actuator through the first portion deactivates the latch so that the actuator can move through

the second portion to the opened position, and wherein the first portion and the second portion of the actuation path are serially aligned and substantially indistinguishable to a user during attempted movement of the actuator to the opened position (claim 35).

### ***Response to Arguments***

7. Applicant's arguments filed on August 10, 2006 have been fully considered but they are not persuasive.

The applicant argues that new claim 42 is allowed because Johnson '626 fails to disclose that the handle is not adapted to be mounted to the exterior surface of a vehicle door (Page 13 Line 5).

At the instant, the claim language just requires that the handle is adapted to or is capable of being mounted to the exterior surface of a vehicle door. Johnson discloses that the handle may be disposed inside the vehicle (Col. 1 Lines 1-5). In other words, the handle could be mounted some place else. The structure described by Johnson is capable to be positioned in the exterior surface of the vehicle. There is not structure limitation that could prevent one of the ordinary skill in the art to mount the handle described by Johnson in an exterior surface of a vehicle door.

Further, the applicant is reminded that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. Therefore, the argument is not persuasive.

Art Unit: 3676

As to the arguments with respect to claims 28 and 35, the arguments are persuasive; therefore, the rejection has been withdrawn (see allowable subject matter section above).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos Lugo  
Patent Examiner  
Art Unit 3676

October 1, 2006.



BRIAN E. GLESSNER  
SUPERVISORY PATENT EXAMINER